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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/705,056 11/02/00 FORBES

J 5699-23

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PM82/0709

EXAMINER

JULES, F

ART UNIT	PAPER NUMBER
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3617

DATE MAILED:

07/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/705,056

Applicant(s)

FORBES, JAMES W.

Examiner

Frantz F. Jules

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 9, 10, 21 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-20 and 22-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 9-10, 21, 31 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Figs 2g, 3e, 5a-5e, 6a-6e in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 9-10, 21, 31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-19, 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 12, the phrase "said top truss assembly being mounted at a height exceeding AAR Plate C" is confusing as the scope of the claim is undefined by the use of AAR specification which is subject to change over time. Similar problem exists in claim 30, line 9.

In claim 7, lines 1-3, the phrase "when loaded with lumber having a density of up to 1740 lbs per 1000 board feet , has a center of gravity falling within a range whose upper

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limit is 98 inches above top of rail" is confusing as it is unclear which specific structure applicant is referring to.

In claim 12, line 1, the phrase "said end section lading interface lies at a height greater than 42 inches above top of rail" is confusing as it is unclear which particular rail structure applicant is referring to.

In claim 17, lines 14-17, the phrase "said railroad car having a load limit height defined at a level measured upwardly from said medial structure, and having a nominal load limit height that is at least as great as the largest integer multiple of 33 inches that is less than the load limit height" is confusing as it is unclear how tall is the actual load limit height.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, 11, 13, 17-20, 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saxton'083 in view of Woolam et al.

Claims 1-4, 11, 13, 23-29

Saxton teaches all the limitations of claims 1-4, 11, 13, 23-29 except for a center beam railroad car having a decking structure with a downwardly stepped medial portion between first and second trucks and a top truss assembly mounted at a height exceeding AAR Plate C. Woolam et al teach the use of a decking structure with a

downwardly stepped medial portion between first and second trucks in a railroad car, see abstract section, figs. 1-9. The general concept of mounting a top truss assembly in a center beam railroad car at a height greater than AAR Plate C falls within the range of common knowledge as part of obvious routine design specification. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saxton to include the use of a decking structure with a downwardly stepped medial portion between first and second trucks in his advantageous center beam railroad car as taught by Woollam et al in order to provide a rigid structure floor assembly with low deflection characteristics thereby increasing the safety level of the center beam car. In addition, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saxton to include the use of a top truss assembly which is mounted at a height exceeding AAR Plate C in order to increase the load carrying capability of the center beam railroad car.

#### Claims 5-8

Regarding using a medial decking portion having a length between 28 feet and 40 feet including an upwardly stepped load bearing interface that is at least 30 inches tall as recited in claims 5-8, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saxton to include the use of a medial decking portion having a length between 28 feet and 40 feet including an upwardly stepped load bearing interface that is at least 30 inches tall in his advantageous system, as floor design is a common and everyday occurrence throughout the center beam railroad car design art and the specific use of a medial decking portion having a length between 28 feet and 40

feet including an upwardly stepped load bearing interface that is at least 30 inches tall would have been an obvious matter of design preference depending upon such factors as the weight of the object to be carried by the railroad car, the yield strength of the floor material; the ordinarily skilled artisan choosing the best stress profile corresponding to a particular loading imposed on the side walls which would most optimize the cost and performance of the device for a particular application at hand, based upon the above noted common design criteria.

#### Claims 17-20

Regarding using a railroad car with a load limit height measured from the floor with a nominal height that is at least as great as the largest integer multiple of 33 inches that is less than the load limit height or 5 inches below the nominal load limit height as recited in claims 17-20 It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saxton to include the use of a railroad car with a load limit height measured from the floor with a nominal height that is at least as great as the largest integer multiple of 33 inches that is less than the load limit height or 5 inches below the nominal load limit height in his advantageous system, as web assembly design is a common and everyday occurrence throughout the center beam railroad car design art and the specific use of a railroad car with a load limit height measured from the floor with a nominal height that is at least as great as the largest integer multiple of 33 inches that is less than the load limit height or 5 inches below the nominal load limit height would have been an obvious matter of design preference depending upon such factors as the weight and height of the object to be carried by the center beam railroad

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car, the yield strength of the materials used to built the railroad car; the ordinarily skilled artisan choosing the best stress profile corresponding to a particular loading imposed on the side walls which would most optimize the cost and performance of the device for a particular application at hand, based upon the above noted common design criteria.

7. Claims 12, 14-16, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saxton and woollam et al as applied to claims 1-8, 11, 13, 17-20, 23-30 above, and further in view of Jamrozy et al.

Claims 12, 14-16, 22

Saxton and Woollam et al teach all the limitations of claims 12, 14-16, 22 except for a center beam railroad car having side sills with a knee joining the side sills including longitudinally extending inboard and outboard flanges. Jamrozy et al teach the use of side sills with a knee joining the side sills including longitudinally extending inboard and outboard flanges in a railroad car assembly, see fig. 4. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saxton to include the use of side sills with a knee joining the side sills including longitudinally extending inboard and outboard flanges in his advantageous center beam railroad car as taught Jamrozy et al in order to prevent deflection of the side sills member under heavy loadings.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bateson et al are cited to show related related center beam railroad car having downward stepped medial deck structure.

Manning, Lutkenhouse, Simpson, Abrams are cited to show closely related vehicle deck structure having stepped medial section.

Thompson, Klar are cited to show vehicle deck structure having storage compartment.

Baker and Pringle are cited to show related vehicle deck structure having a skirt member along the web work assembly.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 308-8780. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 308-0230. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Frantz F. Jules  
Examiner  
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FFJ

July 2, 2001

A handwritten signature in black ink, appearing to read 'S. Morano', with a long horizontal flourish extending to the right.

**S. JOSEPH MORANO**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**